

Senate File 192 - Introduced

SENATE FILE 192
BY SEGEBART

A BILL FOR

1 An Act relating to licenses to practice applied behavior
2 analysis and including effective date and implementation
3 provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.24, subsection 7, paragraph d, Code
2 2017, is amended to read as follows:

3 *d. "Health care provider"* means a physician licensed under
4 chapter 148, a chiropractor licensed under [chapter 151](#), a
5 physical therapist licensed pursuant to [chapter 148A](#), an
6 occupational therapist licensed pursuant to [chapter 148B](#),
7 a podiatrist licensed pursuant to [chapter 149](#), a physician
8 assistant licensed and practicing under a supervising physician
9 pursuant to [chapter 148C](#), a licensed practical nurse, a
10 registered nurse, or an advanced registered nurse practitioner
11 licensed pursuant to [chapter 152](#) or [152E](#), a respiratory
12 therapist licensed pursuant to [chapter 152B](#), a dentist, dental
13 hygienist, or dental assistant registered or licensed to
14 practice under [chapter 153](#), an optometrist licensed pursuant to
15 chapter 154, a psychologist licensed pursuant to [chapter 154B](#),
16 a social worker licensed pursuant to [chapter 154C](#), a mental
17 health counselor, ~~or a marital and family therapist,~~ behavior
18 analyst, or assistant behavior analyst licensed pursuant to
19 chapter 154D, a speech pathologist or audiologist licensed
20 pursuant to [chapter 154F](#), a pharmacist licensed pursuant to
21 chapter 155A, or an emergency medical care provider certified
22 pursuant to [chapter 147A](#).

23 Sec. 2. Section 147.1, subsections 3 and 6, Code 2017, are
24 amended to read as follows:

25 3. "*Licensed*" or "*certified*", when applied to a physician
26 and surgeon, podiatric physician, osteopathic physician and
27 surgeon, physician assistant, psychologist, chiropractor,
28 nurse, dentist, dental hygienist, dental assistant,
29 optometrist, speech pathologist, audiologist, pharmacist,
30 physical therapist, physical therapist assistant, occupational
31 therapist, occupational therapy assistant, orthotist,
32 prosthetist, pedorthist, respiratory care practitioner,
33 practitioner of cosmetology arts and sciences, practitioner
34 of barbering, funeral director, dietitian, behavior analyst,
35 assistant behavior analyst, marital and family therapist,

1 mental health counselor, respiratory care and polysomnography
2 practitioner, polysomnographic technologist, social worker,
3 massage therapist, athletic trainer, acupuncturist, nursing
4 home administrator, hearing aid specialist, or sign language
5 interpreter or transliterator means a person licensed under
6 this subtitle.

7 6. "Profession" means medicine and surgery, podiatry,
8 osteopathic medicine and surgery, practice as a physician
9 assistant, psychology, chiropractic, nursing, dentistry,
10 dental hygiene, dental assisting, optometry, speech pathology,
11 audiology, pharmacy, physical therapy, physical therapist
12 assisting, occupational therapy, occupational therapy
13 assisting, respiratory care, cosmetology arts and sciences,
14 barbering, mortuary science, applied behavior analysis, marital
15 and family therapy, mental health counseling, polysomnography,
16 social work, dietetics, massage therapy, athletic training,
17 acupuncture, nursing home administration, practice as a hearing
18 aid specialist, sign language interpreting or transliterating,
19 orthotics, prosthetics, or pedorthics.

20 Sec. 3. Section 147.2, subsection 1, Code 2017, is amended
21 to read as follows:

22 1. A person shall not engage in the practice of medicine
23 and surgery, podiatry, osteopathic medicine and surgery,
24 psychology, chiropractic, physical therapy, physical
25 therapist assisting, nursing, dentistry, dental hygiene,
26 dental assisting, optometry, speech pathology, audiology,
27 occupational therapy, occupational therapy assisting,
28 orthotics, prosthetics, pedorthics, respiratory care, pharmacy,
29 cosmetology arts and sciences, barbering, social work,
30 dietetics, applied behavior analysis, marital and family
31 therapy or mental health counseling, massage therapy, mortuary
32 science, polysomnography, athletic training, acupuncture,
33 nursing home administration, or sign language interpreting or
34 transliterating, or shall not practice as a physician assistant
35 or a hearing aid specialist, unless the person has obtained a

1 license for that purpose from the board for the profession.

2 Sec. 4. Section 147.13, subsection 16, Code 2017, is amended
3 to read as follows:

4 16. For applied behavior analysis, marital and family
5 therapy, and mental health counseling, the board of behavioral
6 science.

7 Sec. 5. Section 147.14, subsection 1, paragraph m, Code
8 2017, is amended to read as follows:

9 *m.* For behavioral science, three members licensed to
10 practice marital and family therapy, all of whom shall be
11 practicing marital and family therapists; three members
12 licensed to practice mental health counseling, one of whom
13 shall be employed in graduate teaching, training, or research
14 in mental health counseling and two of whom shall be practicing
15 mental health counselors; two licensed behavior analysts; one
16 licensed assistant behavior analyst; and three members who are
17 not licensed to practice marital and family therapy, applied
18 behavior analysis, or mental health counseling and who shall
19 represent the general public.

20 Sec. 6. Section 147.74, Code 2017, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 14A. *a.* A behavior analyst licensed under
23 chapter 154D may use the letters "LBA" after the person's name.

24 *b.* An assistant behavior analyst licensed under chapter 154D
25 may use the letters "LABA" after the person's name.

26 Sec. 7. Section 154D.1, Code 2017, is amended by adding the
27 following new subsections:

28 NEW SUBSECTION. 1A. "*Certifying entity*" means the behavior
29 analyst certification board or another entity whose programs to
30 certify professional practitioners of applied behavior analysis
31 are accredited by the national commission for certifying
32 agencies or the American national standards institute.

33 NEW SUBSECTION. 1B. "*Licensed assistant behavior analyst*"
34 means a person licensed to practice applied behavior analysis
35 under the supervision of a licensed behavior analyst under

1 chapter 147 and this chapter.

2 NEW SUBSECTION. 1C. *“Licensed behavior analyst”* means a
3 person licensed to practice applied behavior analysis under
4 chapter 147 and this chapter.

5 NEW SUBSECTION. 6A. *“Practice of applied behavior*
6 *analysis”* means the design, implementation, and evaluation
7 of instructional and environmental modification to produce
8 socially significant improvements in human behavior.
9 *“Practice of applied behavior analysis”* includes the empirical
10 identification of functional relations between behavior and
11 environmental factors, known as functional assessment and
12 analysis. *“Practice of applied behavior analysis”* excludes
13 psychological testing, psychotherapy, cognitive therapy,
14 sex therapy, psychoanalysis, hypnotherapy, and counseling as
15 treatment modalities.

16 Sec. 8. NEW SECTION. 154D.2A **Licensure — behavior analysts**
17 **— assistant behavior analysts.**

18 1. An applicant for a license to practice as a behavior
19 analyst shall be granted a license by the board upon submitting
20 to the board proof of the applicant’s current certification as
21 a behavior analyst or behavior analyst-doctoral by a certifying
22 entity.

23 2. An applicant for a license to practice as an assistant
24 behavior analyst shall be granted a license by the board upon
25 submitting to the board proof of the applicant’s current
26 certification as an assistant behavior analyst by a certifying
27 entity. The applicant must also provide proof of ongoing
28 supervision by a licensed behavior analyst in accordance with
29 the requirements of the certifying entity.

30 Sec. 9. Section 154D.4, Code 2017, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 3. This chapter and chapter 147 do not
33 prevent or restrict the practice of applied behavior analysis
34 by any of the following:

35 a. Persons licensed to practice other professions under

1 this subtitle, provided that the person does not represent
2 that the person is a behavior analyst or assistant behavior
3 analyst unless also licensed as one, applied behavior analysis
4 is within the scope of practice of the person's profession, and
5 the services provided are within the boundaries of the person's
6 education, training, and competence.

7 *b.* Family members of recipients of applied behavior analysis
8 services implementing applied behavior analysis treatment plans
9 with the recipients under the extended authority and direction
10 of a licensed behavior analyst or a licensed assistant behavior
11 analyst. Such persons shall not represent themselves as
12 behavior analysts or assistant behavior analysts.

13 *c.* Paraprofessional technicians who deliver applied behavior
14 analysis services under the extended authority and direction
15 of a licensed behavior analyst or licensed assistant behavior
16 analyst. Such persons shall not represent themselves as
17 behavior analysts or assistant behavior analysts and shall use
18 titles that indicate their nonprofessional status, including
19 but not limited to "assistant behavior analyst technician",
20 "behavior technician", "tutor", or "line therapist".

21 *d.* Behavior analysts who practice with nonhumans, including
22 but not limited to applied animal behaviorists and animal
23 trainers. Such individuals may use the title "behavior
24 analyst" but shall not represent themselves as licensed
25 behavior analysts or licensed assistant behavior analysts
26 unless they are licensed as such.

27 *e.* Professionals who provide general applied behavior
28 analysis services to organizations, so long as those services
29 are for the benefit of the organizations and do not involve
30 direct services to individuals. Such professionals may use the
31 title "behavior analyst" but shall not represent themselves
32 as licensed behavior analysts or licensed assistant behavior
33 analysts unless they are licensed as such.

34 *f.* Students whose applied behavior analysis activities are
35 conducted within a defined program of study, course, practicum,

1 internship, or postdoctoral fellowship, provided that the
2 applied behavior analysis activities are directly supervised
3 by a behavior analyst licensed in this state, an instructor in
4 a course sequence approved by a certifying entity, or another
5 qualified faculty member of the student's program. Such
6 students shall not present themselves as behavior analysts
7 or assistant behavior analysts and shall use titles that
8 clearly indicate their status, such as "student", "intern", or
9 "trainee".

10 *g.* Unlicensed persons pursuing supervised experience in
11 applied behavior analysis consistent with the experience
12 requirements of a certifying entity, provided such experience
13 is supervised in accordance with the requirements of the
14 certifying entity.

15 *h.* Individuals who teach applied behavior analysis or
16 conduct behavior-analytic research, provided that such teaching
17 or research does not involve the direct delivery of applied
18 behavior analysis services. Such individuals may use the
19 title "behavior analyst" but shall not represent themselves
20 as licensed behavior analysts or licensed assistant behavior
21 analysts unless they are licensed as such.

22 *i.* Behavior analysts licensed in another jurisdiction or
23 certified by a certifying entity to practice independently and
24 who work in this state no more than two thousand eighty hours
25 within a calendar year.

26 *j.* Persons employed by a school board performing the
27 duties of their positions. Such persons shall not represent
28 themselves as licensed behavior analysts or licensed assistant
29 behavior analysts unless they are licensed as such, and
30 shall not offer applied behavior analysis services to any
31 persons or entities other than their school employer or accept
32 remuneration for providing applied behavior analysis services
33 other than the remuneration they receive from their school
34 employer.

35 Sec. 10. Section 154D.5, Code 2017, is amended to read as

1 follows:

2 **154D.5 Sexual conduct with client.**

3 The license of a behavior analyst, an assistant behavior
4 analyst, a marital and family therapist, or a mental health
5 counselor shall be revoked if the board finds that the licensee
6 engaged in sexual activity with a client as determined by
7 board rule. The revocation shall be in addition to any other
8 penalties provided by law.

9 Sec. 11. Section 154D.7, Code 2017, is amended to read as
10 follows:

11 **154D.7 Temporary license — marital and family therapy —**
12 **mental health counseling — fees.**

13 Any person who has fulfilled all of the requirements for
14 licensure under ~~this chapter~~ section 154D.2, except for having
15 completed the postgraduate supervised clinical experience
16 requirement as determined by the board by rule, may apply
17 to the board for a temporary license. The license shall be
18 designated "temporary license in marital and family therapy"
19 or "temporary license in mental health counseling" and
20 shall authorize the licensee to practice marital and family
21 therapy or mental health counseling under the supervision of a
22 qualified supervisor as determined by the board by rule. The
23 license shall be valid for three years and may be renewed at
24 the discretion of the board. The fee for a temporary license
25 shall be set by the board to cover the administrative costs of
26 issuing the license, and if renewed, a renewal fee as set by
27 the board shall be required.

28 Sec. 12. Section 249A.15A, Code 2017, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 5. The department shall adopt rules
31 pursuant to chapter 17A entitling behavior analysts and
32 assistant behavior analysts who are licensed pursuant to
33 chapter 154D to payment for behavioral health services provided
34 to recipients of medical assistance, subject to limitations
35 and exclusions the department finds necessary on the basis of

1 federal laws and regulations.

2 Sec. 13. EFFECTIVE DATE AND IMPLEMENTATION. This Act
3 shall take effect January 1, 2018, except that the board of
4 behavioral science may begin implementation prior to that date,
5 to the extent necessary to fully implement the provisions
6 providing for the licensure of behavior analysts and assistant
7 behavior analysts by January 1, 2018.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill creates a licensure process for behavior analysts
12 and assistant behavior analysts who practice applied behavior
13 analysis. These professions, as defined in the bill, shall
14 be regulated by the board of behavioral science. Board seats
15 for two licensed behavior analysts and one licensed assistant
16 behavior analyst shall be added to the board of behavioral
17 science. The bill allows licensed behavior analysts to
18 refer to themselves as "LBAs" and licensed assistant behavior
19 analysts as "LABAs".

20 Under the bill, an applicant for a license to practice as
21 a behavior analyst shall be granted a license by the board of
22 behavioral science upon submitting proof to the board of the
23 applicant's certification as a behavior analyst or behavior
24 analyst-doctoral by a certifying entity. The bill defines
25 "certifying entity" as the behavior analyst certification
26 board or another entity whose programs to certify professional
27 practitioners of behavior analysis are accredited by the
28 national commission on certifying agencies or the American
29 national standards institute.

30 An applicant for a license as an assistant behavior
31 analyst shall be granted a license by the board of behavioral
32 science upon submitting to the board proof of the applicant's
33 certification as an assistant behavior analyst verified by
34 a certifying entity. The applicant must also provide proof
35 of ongoing supervision by a licensed behavior analyst in

1 accordance with the requirements of a certifying entity.

2 The bill exempts certain persons from the licensure
3 requirements, including a person licensed to practice other
4 health-related professions, behavior analysts who practice with
5 nonhumans, family members of recipients of applied behavior
6 analysis services, paraprofessional technicians, persons
7 who provide general applied behavior analysis services to
8 organizations, applied behavior analysis students, persons who
9 teach behavior analysis or conduct behavior-analytic research,
10 persons pursuing supervised experience in applied behavior
11 analysis, behavior analysts licensed in another jurisdiction or
12 certified by the certifying entity to practice independently
13 and who work in this state no more than 2,080 hours within
14 a calendar year, and persons employed by a school board
15 performing the duties of their positions.

16 The bill requires the revocation of a behavior analyst's or
17 assistant behavior analyst's license if the board of behavioral
18 science finds that the licensee engaged in sexual activity with
19 a client. The revocation shall be in addition to any other
20 penalties provided by law.

21 The bill includes an effective date of January 1, 2018,
22 except that the board of behavioral science may begin
23 implementation prior to that date, to the extent necessary to
24 fully implement the provisions providing for the licensure of
25 behavior analysts and assistant behavior analysts by January
26 1, 2018.